

January 13th, 2015

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Request for Review

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Appeal of Administrators Decision on Appeal
Educare of Tulsa-Kendall Whittier
CC Docket No. 02-6

FCC Mail Room

Federal Communications Commission
Office of the Secretary
445 12th Street, SW
Washington, DC 20554

Appellant Name:	Richard Senturia, consultant for applicant.
Applicant:	Educare of Tulsa-Kendall Whittier
Billed Entity Number:	16062198
Form 471 Application Number:	830492
Funding Request Number:	2255858

To whom it may concern,

Introduction

This is an appeal of USAC's denial of funding for Application Number 830492, FRN 2255858, CoxCom, Inc. dba Cox Communications Oklahoma City (SPIN: 143018999), dated November 18th, 2014.

USAC is seeking recovery of funds in the amount of \$12,603.60 that were allegedly improperly disbursed to Educare of Tulsa-Kendall Whittier. The Billed Entity receiving service was purportedly not in compliance with the guidelines set forth by CIPA when the services began.

We appeal the judgment that there was a failure to comply. There are no grounds for requesting that the funding be reimbursed.

Argument

I. Educare of Tulsa- Kendall-Whittier

USAC requires that an entity file as either a school, school district or a consortium. While the FCC/USAC began to allow entities that were not elementary or secondary schools to be eligible for E-rate funding, no changes were made to the system of classification to reflect this expansion of eligibility. We have filed for this entity as a school.

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II. Compliance with Child Internet Protection Act (CIPA)

We have emphasized in previous correspondence that computer/internet access is not a part of the early childhood education that Educare of Tulsa-Kendall Whittier provides.

Tulsa Educare, Inc. was formed in 2004 as a consequence of collaboration between public entities and private donors, including George Kaiser. The program targets at risk children in areas with high performing schools, but focuses on early learning opportunities. The following, from the web page, indicates the vision behind these efforts:

By combining best practices in early childhood education and collaborative partnerships with Tulsa Public Schools, George Kaiser Family Foundation, Early Head Start, University of Oklahoma-Tulsa, State Department of Education, Department of Human Services, and Community Action Project State Pilot Program, Tulsa Educare is able to enhance the early learning curriculum with wrap-around family engagement services such as parental education classes, health promotions, crisis intervention and counseling, medical care, and asset building programs.

III. CIPA and "Authorities Responsible for Administration of the School"

A. Section 1721 (5)(A) of The Children's Internet Protection Act (Pub. L. 106-554), Title XVII – Children's Internet Protection, establishes the "Requirements" for the Schools and Libraries program.

This reads as follows:

(5) REQUIREMENTS FOR CERTAIN SCHOOLS WITH COMPUTERS HAVING INTERNET ACCESS.—

“(A) INTERNET SAFETY.—

“(i) IN GENERAL.--Except as provided in clause (ii), an *elementary or secondary school* (italics added) having computers with Internet access may not receive services at discount rates under paragraph (1)(B) unless the school, school board, local educational agency, or other authority with responsibility for administration of the school—

“(I) submits to the Commission the certifications described in subparagraphs (B) and (C);

“(II) submits to the Commission a certification that an Internet safety policy has been adopted and implemented for the school under subsection (1); and

“(III) ensures the use of such computers in accordance with the certifications.

“(ii) APPLICABILITY.--The prohibition in clause (i) shall not apply with respect to a school that receives services at discount rates under paragraph (1)(B) only for purposes other than the provision of Internet access, Internet service, or internal connections.

“(iii) PUBLIC NOTICE; HEARING.--An elementary or secondary school described in clause (i), or the school board, local educational agency, or other authority with responsibility for administration of the school, shall provide reasonable public notice and

hold at least 1 public hearing or meeting to address the proposed Internet safety policy. In the case of an elementary or secondary school other than an elementary or secondary school as defined in section 14101 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 8801), the notice and hearing required by this clause may be limited to those members of the public with a relationship to the school.

Comment: The title of this section makes clear the requirement for "Certain Schools", specifically, the requirements for schools with internet access.

Further, it should be noted that the subsequent language clearly identifies "*elementary or secondary*" schools having internet access as the subject of the compliance. There is nothing in this language that indicates non-traditional educational institutions such as early childhood centers, or to staff located at those entities as the subject of compliance.

The exclusive focus upon elementary and secondary schools is also evidenced in (iii). In (iii), the act allows that if the school does not hold the public meeting, the "school board, local educational agency, or other authority with responsibility for the administration of the school" may hold the public hearing as agent for the school.

Moreover, the target of compliance is the school (elementary or secondary), not the responsible agency. There is nothing in this language to indicate or to suggest in any way that the school board (or other administrative entity responsible for the school) is required to have a public hearing for itself, or that the responsible agencies are required to have policies. The policies are for the schools; these policies need to be discussed publicly. The act allows that this could happen at a board meeting.

It is evident that the focus is upon elementary and secondary schools, and staff working in those schools. This section does not claim that non-traditional educational institutions such as early childhood centers, or to staff located at those entities are required to be in compliance.

B. Section 1721 (5)(C) Certification With Respect to Adults

This section reflects the same exclusive attention to schools and reads as follows:

“(C) CERTIFICATION WITH RESPECT TO ADULTS.--A certification under this paragraph is a certification that the school, school board, local educational agency, or other authority with responsibility for administration of the school—

“(i) is enforcing a policy of Internet safety that includes the operation of a technology protection measure with respect to any of its computers with Internet access that protects against access through such computers to visual depictions that are—

“(I) obscene; or

“(II) child pornography; and

“(ii) is enforcing the operation of such technology protection measure during any use of such computers.

Comment: The previous section addressed the issue of the public hearing, and allowed public hearings by agents or entities responsible for the school. This section provides a list of entities authorized to certify compliance by the school with respect to adults. Either the school can certify this, or another agency/entity is permitted to certify that the school is in compliance.

To iterate, Kendall-Whittier is not an elementary or secondary school, and it is not a school district office.

IV. SUMMARY.

The text of the The Children's Internet Protection Act directly addresses compliance by "elementary or secondary" schools. There is no evidence to support a judgment that entities such as Educare of Tulsa-Kendall Whittier, providers of early childhood education must be in compliance with the provisions set forth by The Children's Internet Protection Act.

Respectfully,

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